

By: Barrientos

S.B. No. 478

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain counties to impose a local tax on the sale of gasoline and to the use of the tax revenue by a regional mobility authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 370, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. FINANCIAL PARTICIPATION OF CERTAIN COUNTIES IMPOSING LOCAL GASOLINE TAX

Sec. 370.351. DEFINITIONS. In this subchapter:

(1) "Dealer" has the meaning assigned by Section 162.001, Tax Code.

(2) "Gasoline" has the meaning assigned by Section 162.001, Tax Code.

(3) "Jobber" means a person who:
(A) purchases tax-paid gasoline from a person who holds a license under Chapter 162, Tax Code; and

(B) makes a sale with the tax included to a person who maintains storage facilities for gasoline and uses all or part of the stored gasoline to operate a motor vehicle.

(4) "Motor vehicle" has the meaning assigned by Section 162.001, Tax Code.

(5) "Net gallon" has the meaning assigned by Section 162.001, Tax Code.

1 (6) "Public highway" has the meaning assigned by
2 Section 162.001, Tax Code.

3 (7) "Sale" has the meaning assigned by Section
4 162.001, Tax Code.

5 Sec. 370.352. TAX ON SALE OF GASOLINE AUTHORIZED. (a) A
6 county, by order of the commissioners court, may impose a tax on the
7 sale of gasoline sold in the county to propel a motor vehicle on the
8 public highways of this state if:

9 (1) the county is included in an authority or is
10 adjacent to such a county;

11 (2) the county is located in the boundaries of a
12 metropolitan planning area that is served by a metropolitan
13 planning organization; and

14 (3) imposition of the tax is approved at an election
15 called for that purpose and held in each county located in that
16 metropolitan planning area.

17 (b) The counties located in a metropolitan planning area
18 described by Subsection (a)(2) may hold the election to authorize
19 the imposition of the tax on the same uniform election dates or on
20 different uniform election dates. If the counties hold the
21 elections on different uniform election dates, a county included in
22 that metropolitan planning area may not impose the tax until the
23 imposition of the tax has been approved in each county.

24 Sec. 370.353. RATE OF TAX. (a) The tax authorized by this
25 subchapter may be imposed in increments of one cent for each net
26 gallon of gasoline sold in the county to propel a motor vehicle on
27 the public highways of this state, with a minimum rate of three

1 cents for each net gallon and a maximum rate of 10 cents for each net
2 gallon.

3 (b) If the voters of the counties located in a metropolitan
4 planning area described by Section 370.352(a)(3) authorize the
5 imposition of the tax at different rates, each county shall impose
6 the tax at the lowest authorized rate.

7 Sec. 370.354. ADOPTION ELECTION PROCEDURE. (a) An
8 election to adopt the tax authorized by this subchapter is called by
9 an order of the commissioners court.

10 (b) At an election to adopt the tax, the ballot shall be
11 prepared to permit voting for or against the proposition: "The
12 adoption of a local tax on the sale of gasoline in (insert name of
13 county) at the maximum rate of (insert proposed rate) cents per
14 gallon."

15 Sec. 370.355. COMPUTATION OF TAX. (a) A person, including
16 a dealer or jobber, who makes a sale of gasoline in a county
17 authorized to impose the tax to a person who uses the gasoline to
18 propel a motor vehicle on the public highways of this state shall
19 collect the tax authorized by this subchapter for the benefit of the
20 county.

21 (b) The seller shall add the amount of the tax authorized by
22 this subchapter to the selling price of gasoline, and the tax is a
23 part of the gasoline price, is a debt owed to the seller, and is
24 recoverable at law in the same manner as the gasoline fuel charge.

25 (c) The tax authorized by this subchapter is in addition to
26 the tax imposed by Chapter 162, Tax Code.

27 Sec. 370.356. EXEMPTIONS APPLICABLE. The exemptions

1 provided by Section 162.104, Tax Code, apply to the tax authorized
2 by this subchapter.

3 Sec. 370.357. EFFECTIVE DATE OF TAX. After the imposition
4 of the tax has been approved in each county located in a
5 metropolitan planning area described by Section 370.352(a)(2), the
6 commissioners court of each county shall issue a concurrent order
7 prescribing the date on which the adoption of the tax will take
8 effect in those counties.

9 Sec. 370.358. COLLECTION AND ENFORCEMENT OF TAX. (a) A
10 person, including a dealer or jobber, required to collect the tax
11 authorized by this subchapter shall report and send the taxes to the
12 county as provided by the county.

13 (b) The county may prescribe monetary penalties, including
14 interest charges, for failure to keep records required by this
15 subchapter, to report when required, or to pay the tax when due.

16 (c) The county may permit a person who is required to
17 collect the tax authorized by this subchapter to retain a
18 percentage of the amount collected and required to be reported as
19 reimbursement to the person for the costs of collecting the tax.
20 The county may provide that the person may retain the amount only if
21 the person pays the tax and files reports as required by the county.

22 (d) The county attorney may bring suit against a person who
23 violates this subchapter.

24 Sec. 370.359. REFUND. (a) A person who has paid the tax
25 authorized by this subchapter on gasoline used by the person for a
26 purpose other than to propel a motor vehicle on the public highways
27 of this state or for a use exempted under Section 370.356 may file a

1 claim for a refund.

2 (b) The county shall prescribe the procedures a person must
3 use to obtain a refund under this section.

4 Sec. 370.360. REQUIRED PERMIT. The county may require a
5 dealer, jobber, or other person required to collect, report, and
6 pay the tax authorized by this subchapter to obtain a permit from
7 the county.

8 Sec. 370.361. TRANSFER TO AUTHORITY. (a) Not later than
9 the last day of the first month following each calendar quarter, the
10 county treasurer shall send to the authority the taxes collected
11 during that calendar quarter after payment of all refunds allowed
12 by law and expenses of collection.

13 (b) Net tax revenue received by an authority under this
14 subchapter shall be accounted for separately and may not be
15 commingled with other authority revenue.

16 Sec. 370.362. USE OF TAX PROCEEDS. An authority may use net
17 tax revenue received under this subchapter only to:

18 (1) reduce the number of lane miles included in a
19 proposed transportation project or a part or section of a proposed
20 transportation project for which the authority intends to impose a
21 toll for use according to the authority's most recently adopted
22 toll plan;

23 (2) reduce the amount of the toll charged for use of a
24 transportation project or a part or section of a transportation
25 project in use at the time the tax is imposed under this subchapter;

26 (3) waive the toll charged for use of a transportation
27 project or for a part or section of a transportation project by one

1 or more classes of vehicles prescribed by the authority, such as
2 public school buses and mass transit vehicles; and

3 (4) finance any costs associated with the
4 implementation, operation, or maintenance of a passenger rail
5 transportation project.

6 SECTION 2. This Act takes effect on the date on which the
7 constitutional amendment proposed by the 79th Legislature, Regular
8 Session, 2005, authorizing a county to impose a local tax on the
9 sale of gasoline and to transfer the revenue from the tax to another
10 political subdivision of this state takes effect. If that
11 amendment is not approved by the voters, this Act has no effect.